



Sen. Michael E. Hastings

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LRB099 17213 EGJ 46587 a

1 AMENDMENT TO SENATE BILL 2771

2 AMENDMENT NO. _____. Amend Senate Bill 2771 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by
5 changing Section 155.39 as follows:

6 (215 ILCS 5/155.39)
7 Sec. 155.39. Vehicle protection products.

8 (a) As used in this Section:

9 "Administrator" means a third party other than the
10 warrantor who is designated by the warrantor to be responsible
11 for the administration of vehicle protection product
12 warranties.

13 "Incidental costs" means expenses specified in the vehicle
14 protection product warranty incurred by the warranty holder
15 related to the failure of the vehicle protection product to
16 perform as provided in the warranty. Incidental costs may

1 include, without limitation, insurance policy deductibles,
2 rental vehicle charges, the difference between the actual value
3 of the stolen vehicle at the time of theft and the cost of a
4 replacement vehicle, sales taxes, registration fees,
5 transaction fees, and mechanical inspection fees.

6 "Vehicle protection product" means a protective chemical,
7 substance, ~~vehicle protection~~ device, system, or service that
8 is (i) installed on or applied to a vehicle, (ii) is designed
9 to prevent loss or damage to a vehicle from a specific cause,
10 (iii) includes a written warranty by a warrantor that provides
11 if the vehicle protection product fails to prevent loss or
12 damage to a vehicle from a specific cause, that the warranty
13 holder shall be paid specified incidental costs by the
14 warrantor as a result of the failure of the vehicle protection
15 product to perform pursuant to the terms of the warranty, and
16 (iv) the warrantor's liability is covered by a warranty
17 reimbursement insurance policy. The term "vehicle protection
18 product" shall include, without limitation, protective
19 chemicals, alarm systems, body part marking products, steering
20 locks, window etch products, pedal and ignition locks, fuel and
21 ignition kill switches, and electronic, radio, and satellite
22 tracking devices. "Vehicle protection product" does not
23 include fuel additives, oil additives, or other chemical
24 products applied to the engine, transmission, or fuel system of
25 a motor vehicle.

26 "Vehicle protection product warrantor" or "warrantor"

1 means a person who is contractually obligated to the warranty
2 holder under the terms of the vehicle protection product.
3 Warrantor does not include an authorized insurer.

4 "Warranty reimbursement insurance policy" means a policy
5 of insurance issued to the vehicle protection product warrantor
6 to pay on behalf of the warrantor all covered contractual
7 obligations incurred by the warrantor under the terms and
8 conditions of the insured vehicle protection product
9 warranties sold by the warrantor. The warranty reimbursement
10 insurance policy shall be issued by an insurer authorized to do
11 business in this State that has filed its policy form with the
12 Department.

13 (b) No vehicle protection product sold or offered for sale
14 in this State in compliance with this Section shall be subject
15 to the provisions of this Code or the Service Contract Act
16 unless it is offered as a service contract as defined in
17 Section 5 of the Service Contract Act.

18 Vehicle protection product warrantors and related vehicle
19 protection product sellers and warranty administrators
20 complying with this Section are not required to comply with and
21 are not subject to any other provision of this Code or the
22 Service Contract Act unless it is offered as a service contract
23 as defined in Section 5 of the Service Contract Act. The
24 vehicle protection products' written warranties are express
25 warranties and not insurance.

26 (c) This Section applies to all vehicle protection products

1 sold or offered for sale prior to, on, or after the effective
2 date of this amendatory Act of the 93rd General Assembly. The
3 enactment of this Section does not imply that vehicle
4 protection products should have been subject to regulation
5 under this Code prior to the enactment of this Section. The
6 changes made to this Section by this amendatory Act of the 99th
7 General Assembly do not imply that vehicle protection products
8 should have been subject to regulation under this Code or the
9 Service Contract Act prior to this amendatory Act of the 99th
10 General Assembly.

11 (Source: P.A. 95-331, eff. 8-21-07.)

12 Section 10. The Service Contract Act is amended by changing
13 Sections 5 and 35 as follows:

14 (215 ILCS 152/5)

15 Sec. 5. Definitions.

16 "Department" means the Department of Insurance.

17 "Director" means the Director of Insurance.

18 "Road hazard" means a hazard that is encountered while
19 driving a motor vehicle, including, but not limited to,
20 potholes, rocks, wood debris, metal parts, glass, plastic,
21 curbs, and composite scraps.

22 "Service contract" means a contract or agreement whereby a
23 service contract provider undertakes for a specified period of
24 time, for separate and identifiable consideration, to perform

1 the repair, replacement, or maintenance, or indemnification
2 for such services, of any automobile, system, or consumer
3 product in connection with the operational or structural
4 failure due to a defect in materials or workmanship, or normal
5 wear and tear, with or without additional provision for
6 incidental payment or indemnity under limited circumstances,
7 for related expenses, including, but not limited to, towing,
8 rental, and emergency road service. Service contracts may
9 provide for:

10 (1) the repair, replacement, or maintenance of such
11 property for damage resulting from power surges and
12 accidental damage from handling;

13 (2) the repair or replacement of tires or wheels, or
14 both, on a motor vehicle damaged as the result of coming
15 into contact with road hazards;

16 (3) the removal of dents, dings, or creases on a motor
17 vehicle that can be repaired using the process of paintless
18 dent removal without affecting the existing paint finish
19 and without replacing vehicle body panels, sanding,
20 bonding, or painting;

21 (4) the repair of chips or cracks in or the replacement
22 of motor vehicle windshields as a result of damage caused
23 by road hazards;

24 (5) the replacement of a motor vehicle key or key-fob
25 in the event that the key or key-fob becomes inoperable or
26 is lost or stolen;

1 (6) the payment of specified incidental costs in the
2 event that a protective chemical, substance, device, or
3 system that ~~(A)~~ is installed on or applied to a motor
4 vehicle and ~~, (B)~~ is designed to prevent loss or damage to
5 a motor vehicle from a specific cause, ~~and (C) includes a~~
6 ~~written product warranty providing for payment to or on~~
7 ~~behalf of the warranty holder's incidental costs in the~~
8 ~~event that the product~~ fails to prevent loss or damage as
9 specified; the reimbursement of incidental costs ~~under the~~
10 ~~warranty~~ must be tied to the purchase of a physical product
11 that is formulated or designed to make the specified loss
12 or damage less likely to occur; however, a protective
13 chemical, substance, device, system, or service that is
14 offered in compliance with and meets the definition of
15 "vehicle protection product" in subsection (a) of Section
16 155.39 of the Illinois Insurance Code shall not be required
17 to comply with this Act; or

18 (7) other services that may be approved by the
19 Director, if not inconsistent with other provisions of this
20 Act.

21 Service contracts shall not include:

22 (i) contracts of limited duration that provide for
23 scheduled maintenance only;

24 (ii) fuel additives, oil additives, or other chemical
25 products applied to the engine, transmission, or fuel
26 system of a motor vehicle;

1 (iii) coverage for the repair or replacement, or both,
2 of damage to the interior surfaces of a vehicle, or for
3 repair or replacement, or both, of damage to the exterior
4 paint or finish of a vehicle; however, such coverage may be
5 offered in connection with the sale of a protective
6 chemical, device, or system described in item (6) of this
7 definition.

8 "Service contract holder" means the person who purchases a
9 service contract or a permitted transferee.

10 "Service contract provider" means a person who is
11 contractually obligated to the service contract holder under
12 the terms of the service contract. A service contract provider
13 does not include an insurer.

14 "Service contract reimbursement insurance policy" means a
15 policy of insurance that is issued to the service contract
16 provider to provide reimbursement to the service contract
17 provider or to pay on behalf of the service contract provider
18 all covered contractual obligations incurred by the service
19 contract provider under the terms and conditions of the insured
20 service contracts issued or sold by the service contract
21 provider.

22 "System" means the heating, cooling, plumbing, electrical,
23 ventilation, or any other similar system of a home.

24 (Source: P.A. 98-222, eff. 1-1-14.)

1 Sec. 35. Cancellation and refunds.

2 (a) No service contract may be issued, sold, or offered for
3 sale in this State unless the service contract clearly states
4 that the service contract holder is allowed to cancel the
5 service contract. If the service contract holder elects
6 cancellation, the service contract provider may retain a
7 cancellation fee not to exceed the lesser of 10% of the service
8 contract price or \$50. The service contract cancellation
9 provision must provide that the service contract may be
10 cancelled:

11 (1) within 30 days after its purchase if no service has
12 been provided and that a full refund of the service
13 contract consideration, less any cancellation fee stated
14 in the service contract will be paid to the service
15 contract holder; or

16 (2) at any other time and a pro rata refund of the
17 service contract consideration for the unexpired term of
18 the service contract, based on the number of elapsed
19 months, miles, hours, or such other reasonably applicable
20 measure which is clearly disclosed in the service contract,
21 less the value of any service received, and any
22 cancellation fee stated in the service contract will be
23 paid to the service contract holder.

24 (b) In the event that a service contract includes the
25 coverage described in paragraph (6) of the definition of
26 "service contract" in Section 5 of this Act, the service

1 contract provider must refund the service contract purchase
2 price in accordance with this Section, but is not required to
3 refund the purchase price of the protective chemical,
4 substance, device, system, or service; however, the service
5 contract provider may elect to refund the purchase price of the
6 protective chemical, substance, device, system, or service
7 provided that the terms of that refund are clearly stated in
8 the service contract. The coverage described in paragraph (6)
9 of the definition of "service contract" in Section 5 of this
10 Act may not be offered as or within a service contract unless
11 the service contract clearly states whether or not the service
12 contract holder is entitled to a refund of the purchase price
13 of the protective chemical, substance, device, system, or
14 service and, if applicable, the terms of such refund.

15 (Source: P.A. 90-711, eff. 8-7-98.)".